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SEP 0 5 2006

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REMARKS

The Applicants respectfully request reconsideration of this application in view of the above amendments and the following remarks.

Claim Objections

The Examiner has objected to claims 35 and 51.

Applicants respectfully submit that claims 35 and 51 have been amended to overcome the objection, and request that the objection be withdrawn.

35 U.S.C. §101 Rejection

The Examiner has rejected claims 30-32 and 56-61 under 35 U.S.C. Section 101.

Applicants respectfully submit that claims 30 and 56 have been amended to overcome the rejection, and request that the rejection be withdrawn.

35 U.S.C. §102(b) Rejection - Yates

The Examiner has rejected claims 30, 32 and 43 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,802,373 issued to Yates et al. (hereinafter "Yates").

Applicants respectfully submit that claims 30 and 43 have been amended to overcome the rejection, and request that the rejection be withdrawn.

35 U.S.C. §103(a) Rejection – Yates and Borrill

The Examiner has rejected claims 31, 33-38, 40-42 and 44-65 under 35 U.S.C. §103(a) as being unpatentable over Yates in view of U.S. Patent No. 6,496,922 issued to Borrill (hereinafter "Borrill"). Without admitting the Yates and Borrill may be

Atty Docket No. 42P12485   10
Application No. 10/039,254

combined, the Applicants respectfully submit that the present claims are allowable over Yates and Borrill.

Claim 33 recites a method comprising "*receiving a binary of a program code, the binary based on a first instruction set architecture; checking one or more settable controls that have been set by a programming environment to indicate a compatibility level with which to perform the translation; translating the binary to a translated binary that is based at least in part on a second instruction set architecture, wherein said translating includes using the compatibility level indicated by the one or more settable controls; and executing the translated binary*".

The Examiner has admitted that Yates fails to disclose checking settable controls that have been set by a programming environment and that control said deviating. See e.g., page 5 of the present Office Action.

The Applicants respectfully submit that Borrill does not teach or suggest checking one or more settable controls that have been set by a programming environment to indicate a compatibility level with which to perform the translation, and using the compatibility level indicated by the one or more settable controls when translating the binary. As discussed in the abstract of Borrill, the ISA tags merely identify an ISA to allow it to be recognized as distinct from other ISA's by the system. For example, as stated in the abstract "The number of bits reserved for the ISA tag determines the number of non-native ISA's that are recognized by the system; e.g., three bits allows for the native ISA plus seven non-native ISA's to be recognized by the system". There is absolutely no teaching or reasonable suggestion in Borrill that the ISA tags are settable controls that are set by a program environment to indicate a compatibility level with which to perform the translation.

Atty Docket No. 42P12485   11
Application No. 10/039,254

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Accordingly, claim 33 and its dependent claims are believed to be allowable. Independent claims 30, 43, 49, and 56, and their respective dependent claims, are believed to be allowable for similar reasons.

Claim 62 recites a system comprising "a dynamic random access memory to store a binary that is based on a first instruction set architecture that **allows binaries to self modify**; a memory controller associated with the dynamic random access memory; a translation logic coupled to the dynamic random access memory to receive the binary, the translation logic is to translate the binary to a translated binary that is based, at least in part, on a second instruction set architecture that **does not allow binaries to self modify**, during the translation the translating logic to **instruct the memory controller to perform write operations without checking whether binary is self modifying**.

The Examiner has relied upon col. 10, lines 49-53 of Yates as disclosing the limitation of instructing the memory controller to perform write operations without checking whether binary is self modifying. However, Applicants have carefully reviewed col. 10, lines 49-53 and have found that this section absolutely does not disclose instructing the memory controller to perform write operations without checking whether binary is self modifying. Col. 10, lines 49-53 recite as follows: "*For example, instructions which are self modifying (i.e. are not in read only sections, that is, are on a writtable page) will not be translated. For these instructions the run-time system will execute them via the interpretation routines*". This says that instructions which are self modifying are executed via the interpretation routines instead of being translated, but does not teach or suggest instructing the memory controller to perform write operations without checking whether binary is self modifying.

Accordingly, claim 62 and its dependent claims are believed to be allowable.

Atty Docket No. 42P12485   12
Application No. 10/039,254

35 U.S.C. §103(a) Rejection – Yates, Borrill and Le

The Examiner has rejected claim 39 under 35 U.S.C. §103(a) as being unpatentable over Yates in view of Borrill and Bich C. Le, "An Out-of-Order Execution Technique for Runtime Binary Translators,: 1998 (hereinafter "Le").

Applicants do not admit that Yates, Borrill, and Le may be combined. Nevertheless, at this time, Applicants respectfully submit that the limitations of the independent claims that are not taught or reasonably suggested in Yates and Borrill also are not taught or reasonably suggested in Le. Accordingly, for at least this reason, the present claims are believed to be allowable.

Atty Docket No. 42P12485   13
Application No. 10/039,254

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SEP 0 5 2006

Conclusion

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance. Applicants respectfully request that the rejections be withdrawn and the claims be allowed at the earliest possible date.

Request For Telephone Interview

The Examiner is invited to call Brent E. Vecchia at (303) 740-1980 if there remains any issue with allowance of the case.

Request For An Extension Of Time

The Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17 for such an extension.
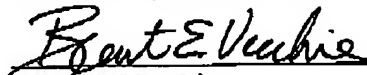
Charge Our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: _9/5/06_

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Atty Docket No. 42P12485   14
Application No. 10/039,254